PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Tatsuya HAYAKAWA et al. Group Art Unit: 3616

Application No.: 10/542,648 Examiner: T. WILHELM

Filed: July 19, 2005 Docket No.: 124515

For: KNEE PROTECTION APPARATUS FOR VEHICLE OCCUPANT

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the November 23, 2007 Election of Species Requirement, Applicants provisionally elect Species I, Fig. 18, with traverse. At least claims 9-11 read on the elected species, and claims 1-8, 12 and 15-28 are generic.

National stage applications filed under 35 U.S.C. §371 are subject to unity of invention practice as set forth in PCT Rule 13, and are not subject to U.S. restriction practice. *See* MPEP §1893.03(d). PCT Rule 13.1 provides that an "international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept." PCT Rule 13.2 states:

> Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

Furthermore, unity of invention only needs to be determined in the first place between independent claims, and not the dependent claims, as stated in ISPE 10.06:

> Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. By "dependent" claim is meant a claim which contains all the features of one or more other claims and contains a reference, preferably at the beginning, to the other claim or claims and then states the additional features claimed (Rule 6.4).

See also MPEP §1850(II). ISPE 10.07 further provides:

> If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims. In particular, it does not matter if a dependent claim itself contains a further invention (emphasis added).

See also MPEP §1850(II).

The Election of Species Requirement asserts that claims 9-11 (Species I), claims 12 and 13 (Species II), and claims 12 and 14 (Species III) do not relate to a single inventive concept. However, Applicants respectfully assert that claims 9-14 depend from independent claim 1. Therefore, because claims 9-14 depend from independent claim 1, which is generic, claims 9-14 relate to a single inventive concept.

Reconsideration and withdrawal of the restriction requirement is respectfully requested.

The Examiner is respectfully requested to reconsider and withdraw the Election of Species Requirement and to examine all of the species and claims in this application.

Respectfully submitted,

James A. Oliff
Registration No. 27,075

Patrick T. Muffo
Registration No. 60,342

JAO:PTM/hs

Date: December 21, 2007

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION
Please grant any extension necessary for entry;
Charge any fee due to our Deposit Account No. 15-0461